IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.7227 of 2006

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Dated: April 21, 2006

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Between:

Radeep Services, 03-01, High Street

Plaza – 77, High Street, Singapore – 179433,

Rep. by its Authorised Agent Sri P. Rakesh Reddy.

… Petitioner

And

The Government of Andhra Pradesh,

Environment, Forests, Science & Technology,

(For.III) Department, Secretariat, Hyderabad,

Rep. by its Principal Secretary, and two others.

… Respondents

Order:

This Writ Petition has been filed seeking Mandamus declaring G.O.Ms.No.132 Environment, Forests, Science and Technology (For.III) Department dated 09-12-2005 as arbitrary and illegal.

2. The Principal Chief Conservator of Forests, Hyderabad, has issued tender notification inviting bids for disposal of a quantity of 1240.12 Metric Tonnes of Red Sanders Wood, that has been seized and lying in the godowns of the Forest Department in the State. The said quantity was divided into grades, namely, 'A', 'B', 'C' and 'D". In the said tender notification, the tenderers were invited to quote two different types of rates, one for utilization of the graded Red Sanders Wood in the country or for export in value added product form and the other for the graded Sanders wood to be exported in round log form without converting them into value added products subject to permission by the Government. The entire said quantity was advertised for disposal in '142' lots. Out of total 142 lots put for sale, the third respondent-company, belonging to Japan, and the petitioner company, belonging to Singapore, have offered highest rates for 135 lots, i.e. 1184.94 Mts. for a total price of Rs.1406.50 lakhs, however, there were no bids for '7' lots. On submission of the rates offered by the petitioner and the third respondent, the second respondent-Government confirmed the rates in G.O.Ms.No.132 dated 09-12-2005, i.e. Rs.1,17,000/- per M.T. for 'C' Grade and Rs.85,000/-/- per M.T. for 'D' Grade. In the said order, the second respondent-Government ordered to dispose of the said quantity subject to obtaining permission from the Government of India.

3. As per the existing Exim policy, there is a prohibition to export the Red Sanders Wood in log form. The State Government addressed to the Government of India for one-time exemption for export in round wood log form. Though proposals were sent for exemption to a total quantity, which was notified for sale, the Government of India has granted exemption for export only to an extent of 885.14 M.T of
A, B, C, D grades of Red Sanders Wood in log form, out of 1240.12 M.T.s. notified for sale. The rates were confirmed only to an extent of 1184.94 M.T.s.

4. As much as Exim policy prohibits for export of Red Sanders wood in log form, when the Government of India was addressed, the Government of India, through the

Ministry of Environment and Forests, has considered the request of the State Government, but, however, granted exemption for export only to an extent of 885.14 M.T.s of Red Sanders Wood in log form, out of 1240.12 M.Ts. and in order to protect the interests and to give preferential treatment to local buyers, the State Government was directed to allot the rest of 354.98 M.T.s. of Red Sanders wood to M/s. Synthite Industrial Chemical Limited, Ernakulam for manufacture of value added products.

5. Though rates were offered by the petitioner and third respondent and other eligible bidders only to the extent of 135 lots, subsequently, a representation dated 18-10-2005 was made by the third respondent to consider for allotment of 55 M.T.s. of Red Sanders Wood material, for which no offers were made by any of the bidders, at the rate of Rs.1,17,000/- per M.T. Basing on such representation, the State Government has issued G.O.Ms.No.132 dated 09-12-2005. The aforesaid G.O., allotting 55 M.T.s. of material in favour of the third respondent is questioned on the ground that the same is disposed of arbitrarily and illegally, without opportunity to the eligible tenderers.

6. On the other hand, in the counter affidavit filed on behalf of the third respondent, it is stated that though initially the third respondent did not respond to the tender notification, so far as the quantity of 55 M.T.s. is concerned, covered by '7' lots, submitted a representation, offering rates above the base price. In view of the same, the Government has considered its case and allotted the said quantity. It is further submitted that in any event, the petitioner, who did not respond to the tender notification for the aforesaid quantity, does not have any *locus standi* to question the same. Even the learned Government Pleader submitted that neither the petitioner nor the third respondent offered their rates for the quantity of 55 M.Ts. covered by '7' lots, pursuant to the tender notification, but, however, in view of the representation dated 18-10-2005 submitted by the third respondent, the said quantity has been allotted in its favour.

7. In view of the respective contentions, in this case, it is to be noticed that though initially the entire quantity of 1240.12 M.T.s. was notified, covered by 142 lots, bidders have offered rates only for 135 lots. So far as remaining 7 lots are concerned, there was no offer at all either by the petitioner or by any third party. As much as the rates offered by the petitioner and the third respondent were found to be highest, with regard to certain other quantities covered by the tender notification, in the absence of any offers for 55 M.T.s. of material, respondents should have either

notified afresh, or should have disposed of the material by negotiations with all the bidders including the petitioner. It is fairly well settled law that public property cannot be distributed without following transparent procedure, by giving equal opportunity to everybody. Though it is submitted by the learned Senior Counsel Sri Vilas Afzul Purkar that the rate offered by the third respondent is above the base price, but, at the same time, it cannot be presumed that the said rate is the best price for disposal of the said quantity. Unless other bidders are given equal opportunity, it is difficult to term the price offered by the third respondent as good.

8. As much as the petitioner has already offered his rates for similar items covered by the same notification and the rates offered by the petitioner as well as the third respondent for such of the quantities of material have already been approved by the Government by G.O.Ms.No.131 dated 09-12-2005, I dispose of the Writ Petition directing the respondents to negotiate with the petitioner, the third respondent and other eligible bidders with regard to disposal of 55 M.T.s. of Red Sanders Wood material, for which no offers were made initially in response to the tender notification. Such exercise shall be done by the Principal Chief Conservator of Forests, Hyderabad, who shall seek approval from the Government, fix a date, and give due notice to the petitioner, the third respondent and other eligible tenderers. If any of the participants, in such negotiations, offer better price than the price offered by the third respondent, i.e. Rs.1,17,000/- per M.T., the said quantity of 55 M.T.s. shall be sold in favour of such bidder. If there is no offer from anybody for more than Rs.1,17,000/- per M.T., the same shall be sold in accordance with the allotment and approval made in G.O.Ms.No.132 dated 09-12-2005, in favour of the third respondent. It is also equally open for the respondent authorities to notify afresh, if they intend to do so, so far as the aforesaid quantity of 55 M.T.s., for which no offers were received earlier, from any of the bidders.

9. Subject to the above directions, the Writ Petition is disposed of. No order as to costs.

JUSTICE R. SUBHASH REDDY.

April 21, 2006

MRR